

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PATRICK WARD and BIANCA WARD
and AS NEXT BEST FRIEND R.W.,

Plaintiffs,

v.

KADI ESTES, CHARLEY TRACY,
JEANETTE GRANT, ST. CHARLES
HEALTH SYSTEM INC., dba ST.
CHARLES MEDICAL CENTER,

Defendants.

Case No. 1:17-cv-00944-CL

ORDER

MCSHANE, Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation (ECF No. 48), and the matter is now before this court. *See* 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b). Plaintiffs filed objections to the Report and Recommendation. Accordingly, I have reviewed the file of this case *de novo*. *See* 28 U.S.C. § 636(b)(1)(c); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). I find no error and conclude the report is correct.

It is clear exigent circumstances justified the State of Oregon’s Department of Human Services (“DHS”) child protective services workers’ decision to remove newborn R.W. from

Plaintiffs' custody. Both Mr. and Mrs. Ward were under indictment for crimes related to child abuse at the time of R.W.'s birth, and DHS had already taken custody of Mrs. Ward's elder two children from a previous relationship and placed them with their biological father. DHS placed R.W. in protective custody due to the threat of abuse from both parents, and not because of the presumptive positive methamphetamine test that Plaintiffs allege formed the basis for DHS' jurisdiction.

In any event, the State Defendants are entitled to qualified immunity because they reasonably believed their actions were lawful. *See* ORS 419B.150(1). Likewise, I agree with Judge Clarke that Plaintiffs fail to demonstrate a genuine dispute of material fact as to their wrongful removal claims against Defendant St. Charles. Therefore, Defendants are entitled to summary judgment.

Magistrate Judge Clarke's Report and Recommendation (ECF No. 48) is adopted in full. State Defendants' motion for summary judgment (ECF No. 16) and St. Charles' motion for summary judgment by joinder (ECF No. 34) are GRANTED.

IT IS SO ORDERED.

DATED this 21st day of September, 2018.

/s/ Michael J. McShane
Michael McShane
United States District Judge